

1 JUDGE RICHARD A. JONES
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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT SEATTLE

12 UNITED STATES OF AMERICA,) NO. CR10-310 RAJ
13 Plaintiff,) DEFENDANT'S MOTION AND
14 vs.) MEMORANDUM OF LAW FOR
15) REVOCATION OF MAGISTRATE
16) JUDGE'S DETENTION ORDER
17 FREDERICK DARREN BERG,)
18) Note for Motion: December 10, 2010
19) Oral Argument Requested
20)
21)

22 Darren Berg,¹ by his attorneys, Assistant Federal Public Defenders Jay Stansell
23 and Erik Levin, respectfully move, pursuant to 18 U.S.C. § 3145(b) and Local Rule
24 W.D. Wash. MJR 11, for an order revoking the Magistrate Judge's Detention Order
25 entered December 1, 2010 (Dkt. No. 16).

26 Mr. Berg is appealing the Magistrate Court's finding that he poses such a serious
risk of flight and danger to the community that no conditions could reasonably ensure his
appearance and the safety of the community. 18 U.S.C. § 3142(f)(2)(A) and (e).

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28 ¹ Although Mr. Berg's given name is Frederick Darren Berg, he goes by his middle name.
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This Court’s review of the magistrate’s pretrial detention order is *de novo*. 18 U.S.C. § 3145(b); *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990). Specifically, this Court must “review the evidence before the magistrate” and any additional evidence proffered by the parties “and make its own independent determination whether the magistrate’s findings are correct, with no deference.” *Koenig*, 912 F.2d at 1193.

In support of his motion, Mr. Berg requests that the Court consider the documents previously filed in this case, including the Government’s Motion for Detention (Dkt 3 in *United States v. Berg*, 10 mj-442 [BAT]), the Defendant’s Motion and Memorandum of Law in Support of Request for Release on Conditions (Dkt. No. 15), and the Magistrate Court’s Detention Order (Dkt. 17), and the transcript of the detention hearing before Magistrate Judge Mary Alice Theiler. A copy of the transcript will be delivered to chambers.

For the reasons stated in his Motion and Memorandum of Law in Support of Request for Release on Conditions, it is respectfully submitted that the Court should revoke the Magistrate Court's Detention Order and release Mr. Berg on the conditions outlined at pages 16-17 of his Motion and Memorandum of Law in Support of Request for Release on Conditions (Dkt. No. 15), any other terms the Court deems appropriate.

DATED this 2nd day of December 2010.

Respectfully submitted,

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MOTION AND MEMORANDUM OF LAW
FOR REVOCATION OF MAGISTRATE JUDGE'S
DETENTION ORDER- 2
(*Frederick Darren Berg*, CR10-310 (RAJ))

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MOTION AND MEMORANDUM OF LAW
FOR REVOCATION OF MAGISTRATE JUDGE'S
DETENTION ORDER- 3
(*Frederick Darren Berg, CR10-310 (RAJ)*

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Norman Barbosa
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and I further certify that I have faxed the document to the following non CM/ECF participants:

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MOTION AND MEMORANDUM OF LAW
FOR REVOCATION OF MAGISTRATE JUDGE'S
DETENTION ORDER- 4
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